IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 25TH SEPTEMBER 2007 / 3RD ASWINA 1929

Crl.MC.No. 2965 of 2007()

CC.1376/2007 of JUDL. MAGISTRATE OF FIRST CLASS COURT, CHALAKUDY

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PETITIONER: ACCUSED NOS. 2 AND 3

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1. SHIBU, S/O.DEVASSY,
   MANGALATH HOUSE, CHAIPPANKUZHI DESOM,
   KUTTICHIRA VILLAGE.

2. BIJU, S/O.VARGHESE,
   KAVUNGAL HOUSE, CHAIPPANKUZHI DESOM,
   KUTTICHIRA VILLAGE.

BY ADV. SMT.K.V.BHADRA KUMARI

RESPONDENTS: COMPLAINANT

STATE OF KERALA, REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA.

BY PUBLIC PROSECUTOR SRI.M.S.BREEZ

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 25/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

Crl.M.C.No.2965 of 2007

Dated this the 25th day of September 2007

O R D E R

The petitioners face indictment in a prosecution for an offence punishable under Section 324 read with 149 I.P.C. All offences are bailable, it is submitted. Cognizance has already been taken. Proceedings have been registered. The petitioners had earlier appeared before the learned Magistrate. But subsequently, as they secured employment abroad, they have not been able to appear before the learned Magistrate. Consequently, warrants of arrest issued by the learned Magistrate is chasing the petitioners.

2. The learned counsel for the petitioners submits that the petitioners are absolutely innocent. Their absence earlier was not wilful or deliberate. The petitioners are willing to surrender before the learned Magistrate and seek regular bail. But they apprehend that their application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. They, therefore, pray that directions under Section 482 Cr.P.C. may be issued to the learned Magistrate to release the petitioners on bail when they appear and apply for bail.

3. It is for the petitioners to appear before the learned Magistrate and explain to the learned Magistrate, the circumstances under which they could not earlier appear before the learned Magistrate. I find absolutely no reason to assume that the learned Magistrate would not consider the application for bail to be filed by the petitioners on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific directions appear to be necessary. Sufficient general directions have been issued in Alice George vs. Deputy Superintendent of Police [2003(1)KLT 339].

4. In the result, this Criminal Miscellaneous Case is dismissed but with the specific observation that if the petitioners surrender before the learned Magistrate and apply for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

Hand over copy of this order to the learned counsel for the petitioners.

(R.BASANT, JUDGE)

jsr

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007